IN THE SUPREME COURT OF THE UNITED STATES

No. 18-315

COCHISE CONSULTANCY, INC., ET AL., PETITIONERS

v.

UNITED STATES EX REL. BILLY JOE HUNT

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE AND FOR DIVIDED ARGUMENT

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in oral argument in this case as amicus curiae supporting respondent and that the United States be allowed ten minutes of argument time. Respondent has consented to the allocation of ten minutes of argument time to the United States.

This case concerns a provision of the False Claims Act (FCA), 31 U.S.C. 3729 et seq., specifying the time within which a "civil action under section 3730" may be brought. 31 U.S.C. 3731(b).

The FCA contains a six-year statute of limitations. 31 U.S.C. 3731(b)(1). It also contains a tolling provision that permits a civil action under Section 3730 to be brought after the six-year limitations period, as long as the action is brought within three years after "the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed." 31 U.S.C. 3731(b)(2). The questions presented here are (1) whether the tolling provision, 31 U.S.C. 3731(b)(2), applies to a civil action brought by a qui tam relator under Section 3730 when the United States declines to intervene in the action and (2) whether a qui tam relator is "the official of the United States charged with responsibility to act in the circumstances," 31 U.S.C. 3731(b)(2), in such an action when the United States declines to intervene.

The United States has a substantial interest in the resolution of those questions. The FCA is the primary tool by which the federal government combats fraud in federal contracts and programs. A qui tam suit under Section 3730 is a means of redressing a legal wrong done to the United States, and the United States receives the majority of any monetary recovery, whether or not the United States intervenes.

The United States has participated in oral argument as amicus curiae in prior cases involving interpretation of the FCA, e.g., State Farm Fire & Cas. Co. v. United States ex rel. Rigsby, 137 S. Ct. 436 (2016); Universal Health Servs., Inc. v. United States ex rel. Escobar, 136 S. Ct. 1989 (2016); Kellogg Brown & Root Servs., Inc. v. United States ex rel. Carter, 135 S. Ct. 1970 (2015); Schindler Elevator Corp. v. United States ex rel. Kirk, 563 U.S. 401 (2011); Graham County Soil & Water Conservation Dist. v. United States ex rel. Wilson, 559 U.S. 280 (2010). Oral presentation of the views of the United States is therefore likely to be of material assistance to the Court.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General
Counsel of Record

FEBRUARY 2019